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SUBJECT: ANGOLA'S NEW CUSTOMS LAW

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¶1. (SBU) Summary. Angola,s new customs code took effect in January 2007, bringing Angolan law into line with modern international practices, including the Kyoto and Istanbul Convention norms. Management consultant Crown Agents has improved daily customs operations, computerizing and streamlining procedures to reduce the amount of time for customs clearance. Crown Agents also trains local authorities on cargo valuation and investigations, and the Customs Service has implemented higher salaries and a profit sharing plan to encourage employees to eschew bribes but fighting endemic corruption is a tough battle. Despite improvements to Customs operations, importers are faced with slow overall clearance time for imports as both Luanda,s seaports and airports are overwhelmed with incoming cargo. In addition, Angola charges some of the highest import duties on goods in the world. End Summary.

The New Customs Code

¶2. (SBU) Angola,s new customs code took effect in January 2007, after National Assembly approval in October 2006. The Angolan Customs Authority awaits the implementing regulations but it is not yet clear when they will be issued. When implemented, the new code will be an important step toward modernizing customs operations in Angola and making clearance practices consistent with other Kyoto Convention signatories.

On January 24, 2007, Econoff and Commercial Specialist met with Andy Hunter, Consultant to Angolan Customs for Crown Agents, and Fecilia Senalto, a lawyer with the investigative office of Angolan Customs, to discuss the new regulations. Crown Agents is a UK-based international consultancy working with Angola,s Customs Service to improve its management systems. Crown Agents was instrumental in amending the previous code, portions of which had been in force since ¶1944. The GRA originally contracted Crown Agents in 2002 and its contract was renewed in 2006 for another three years. Crown Agents, fees are derived as a percentage of total customs fees collected by the GRA, thus it has a direct incentive in cleaning up customs irregularities and improving efficiency. Angolan customs charges, at about ten percent, are higher than U.S. (3.7 percent) or European Union (4.2 percent) average tariffs. In addition to tariffs, Angola levies consumption taxes of ten to thirty percent on the value of imports. However, an importer paying USD 30 in tariffs and taxes on a USD 100 item can sell it for USD 240 in Luanda, thus allowing them to more than recoup the higher tariffs.

Meeting International Standards on Customs

¶3. (SBU) Although 85 percent of the language in the customs code remains unchanged, according to Hunter, the new parts

bring Angolan Customs into line with the Kyoto and Istanbul conventions, as well the Southern African Development Community (SADC) guidelines. (Note: The Kyoto convention regularizes worldwide customs procedures so that shippers can predict the time required for goods to clear customs; automates risk management for customs services; establishes universal standards for better understanding by importers and exporters, and computerizes tracking documents to make extorting facilitation payments more difficult. The Istanbul convention covers temporary imports of goods, such as those used in trade fairs. End note.) Angolan Customs licenses brokers to clear cargoes for importers. Where the number of brokers was previously strictly limited, the new law allows as many brokers to operate as can qualify for licenses.

Risk Management and Investigations

14. (SBU) Risk indicators for suspect cargoes generate notices reminding Customs officials to review documents and, if appropriate, physically inspect the shipment. Customs also conducts a certain number of random documentary and physical inspections.

15. (SBU) The new code gives investigations a more prominent role, providing criminal penalties for violating the customs code. The new law also gives importers the right of appeal, whereas under the old law, Customs sanctions could not be questioned. The new law ends separate Customs courts and cases now must be prosecuted in the regular court system. However, because of the specialized nature of many Customs cases, judges who understand the customs code and case histories will try these cases, somewhat like administrative law judges in the United States. For the first time, judges can hand down jail sentences for violations of the customs code.

Streamlining Operations

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16. (SBU) Crown Agents has focused on computerization. As soon as Customs receives documents, they are keyed into the Customs, computer system, which permits Customs to track cases and gives each official the same information to work from. This has also helped speed the customs process. Customs now can clear a shipment in three days, but importers, delays in assembling all required documents normally add 20 days to this process. For example, a U.S. company was recently assessed punitive charges of over USD 250,000 because its agent consistently delayed advising the US company on required documentation, resulting in long delays for submission.

Hung Up On Paper

17. (SBU) Despite computerization, the Customs process still depends on a paper document, the documento unico (single document). Crown Agents has also trained Angolan officials in risk analysis and in valuation of cargoes under the Kyoto Convention. Hunter ruefully gave an example showing the potential downside of such training. In Mozambique, where Crown Agents had authority over the Customs Service for nine years, it managed to stop corruption by customs officials. When it left, officials returned to demanding bribes, but demanded much more than they had previously because of their newly acquired expertise in cargo valuation.

Confronting Endemic Corruption

18. (SBU) Crown Agents is strictly a management consultant located within Angolan Customs, with neither the mandate nor the authority to fight corruption, but Hunter believes it has impeded corruption by making the Customs process more regular. Transferring paper records to computers protects against altering documents, Hunter explained. Also, the new Customs regulations, when published, will reduce the power of

individual officials to interpret the law.

¶9. (SBU) Hunter stressed that stopping the practice of demanding bribes requires a change in the culture of the workplace. He noted that since 2003, Customs officials have received higher salaries than other Angolan civil servants. In addition, Customs has established a special fund, which is endowed by a small percentage of the duties, fees and fines charged on incoming shipments, plus a social fee charged even on shipments otherwise exempt from charges. The Fund represents a legitimate type of profit sharing scheme and its capital is divided among all Customs officials each year. The Fund also provides an incentive for Customs officials to increase productivity as more shipments processed results in a larger fund and higher per person stipend. Hunter believes this incentive system is working with newer employees. However, he maintained that higher salaries alone do not stop older officials, who take bribes as a matter of course. An internal audit unit investigates possible malfeasance by Customs officials, but authority to discipline or remove officials rests with a special committee and senior Angolan officials in Customs. No figures are available for the number of Customs officials disciplined.

¶10. (SBU) Hunter shared many examples of importers, brokers and Customs officials trying to beat the system, ranging from falsified invoices to outright theft, and conveniently lost paperwork in attempts to avoid physical inspection. Angolan Customs is now investigating such cases and prosecuting transgressions where possible. At least four customs brokers have lost their licenses as a result of investigations by Customs. The investigations office compares values claimed against known values for the items. Discrepancies in data submitted can also alert Customs officials to take a second look at a shipment. Hunter shared one incident where an importer was caught paying a bribe in order to avoid duty payments on his goods) when Angolan Customs sat down with the importer and explained the duty valuation on the goods in question the importer learned he had paid far more with the bribe than if he had simply paid the duty. But given the near institutionalized nature of corruption with regard to all phases of importation, it is likely that it will take many more cases of catching transgressors and explaining the actual duties before the importers get that it is cheaper to conduct business according to the law.

Improvements at Customs Dwarfed by Overall Processing Time

¶11. (SBU) Improvements in Customs clearance times have not translated into improvements in overall processing times for many importers. One non-U.S. medium-size importer says it

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gets its imports within 20 days from the time they are landed, but it also usually pays a bribe for faster service. A U.S. corporation, in contrast, reported persistent problems with its imports despite having done business in Angola for decades. Even the Embassy's shipments take an average of five weeks before they are released by the port. In addition, Embassy Luanda's GSO points to growing congestion at the Port of Luanda and the airport affecting total processing times. Ships arriving at Luanda typically wait one to three weeks before docking, yet the seaport continues to work a 40-hour workweek. Congestion in the container yard adds weeks to processing seaborne shipments. One company reported a shipment which was misplaced by the airport warehousing authority for 14 months.

What Does This Mean for US Business?

¶12. (SBU) Comment: The new customs code should make Customs clearance in Angola more predictable. However, it is only a first step. Parts of the existing law still invite corruption. While customs brokers must now compete with each other for business, it is still possible for officials to

hide bribes in the broker,s bill. High customs charges are a reality of doing business in Angola despite the high markups in Angola,s retail market. Inefficiency in Angola,s ports adds to import times and the tremendous growth in import volume over the last two years has overwhelmed port facilities in Luanda. Ending corruption and eliminating inefficiencies at Angola,s ports is a huge task.

Small steps of success are tangible in the short term but the complete systemic overhaul will take many years.

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